

FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JAMES M. ZARZYNSKI, M.D.,  
RESPONDENT.

FINAL DECISION AND ORDER  
95 MED 92

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

James M. Zarzynski  
1028 E. Juneau #823  
Milwaukee, WI 53202

Wisconsin Medical Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent James Michael Zarzynski (dob 11/11/49) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #22148, first granted on 1/26/79. Respondent has been an addictionologist, and is not currently licensed in any other state.

2. Dr. Zarzynski has retired from the practice of medicine. There is a pending investigation of respondent by the Board.

CONCLUSIONS OF LAW

3. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that James M. Zarzynski, M.D., shall not practice medicine or surgery without first meeting with the Board and demonstrating that he is, at that time, capable of practice with skill and safety to the patient and public. The Board may require such tests or examinations as it, in its sole discretion, deems proper. A denial of unrestricted licensure or the imposition of terms or limitations on the license shall not be deemed a denial of license and shall not entitle respondent to a hearing under ch RL 1, Wis. Adm. Code.


IT IS FURTHER ORDERED, that [pursuant to §448.02(4), Wis. Stats.,] if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license and registration of respondent be summarily suspended pending investigation of the alleged violation.

IT IS FURTHER ORDERED, that respondent shall pay the COSTS of the investigation of this matter, not to exceed \$2,500.

Dated this May 22, 1996.

WISCONSIN MEDICAL EXAMINING BOARD

by:

  
a member of the Board

akt

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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JAMES M. ZARZYNSKI, M.D.,  
RESPONDENT.

STIPULATION  
95 MED 92

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of respondent's right to seek legal representation and has obtained legal advice before signing this Stipulation.

4. Respondent does not admit to any improper conduct, but solely to settle this matter and to avoid the expenses and uncertainties of litigation, agrees to the adoption of the attached Final Decision and Order by the Board. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

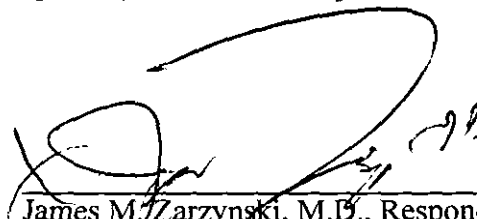
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.


7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and view of the case acquired during the investigation.

8. This stipulation is subject to approval by the Division of Enforcement's attorney-supervisor. If approved by the supervisor, the Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


9. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the Monthly Disciplinary Report issued by the department. A summary of the order will be published in the Wisconsin Regulatory Digest issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondent.

  
James M. Zarzynski, M.D., Respondent

4-26-96  
Date

  
Alan D. Eisenberg, Attorney for Respondent

4/26/96  
Date

  
Arthur Thexton, Prosecuting Attorney  
Division of Enforcement

4/26/96  
Date

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

May 23, 1996

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD


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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS  
AGAINST  
JAMES M. ZARZYNSKI, M.D.,  
RESPONDENT.

:  
:  
: **NON-AFFIDAVIT OF COSTS OF**  
: **OFFICE OF BOARD LEGAL SERVICES**  
: Case No. LS-9510301-MED  
: (95 MED 92)  
:

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TO THE MEDICAL EXAMINING BOARD:

1. I was assigned as administrative law judge to hear the above-captioned matter.
2. On May 22, 1996, the Medical Examining Board issued its Final Decision and Order in this case, as a result of which the respondent, James M. Zarzynski, was ordered to pay a sum not to exceed \$2,500 toward the costs of the action.
3. The prosecuting attorney, Arthur Thexton, has informed me that the affidavit of costs for the Division of Enforcement exceeds \$2,500.
4. Therefore, I consider it unnecessary to file an affidavit of costs for the Office of Board Legal Services, although I am prepared to do so if the board wishes.

Dated: June 4, 1996.

  
\_\_\_\_\_  
John N. Schweitzer  
Administrative Law Judge

FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

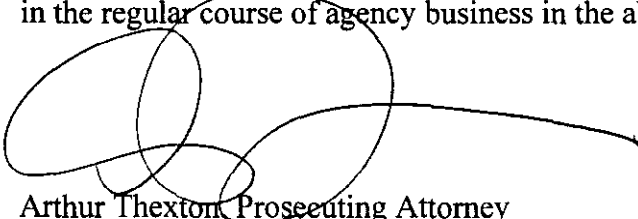
JAMES M. ZARZYNSKI, M.D., :  
RESPONDENT. :

AFFIDAVIT OF COSTS  
95 MED 92

STATE OF WISCONSIN)  
COUNTY OF DANE )

I, Arthur Thexton, being on affirmation, say:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement;
2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and
3. That set out on the attached record are some of the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.



Arthur Thexton, Prosecuting Attorney

Subscribed to and affirmed before me this June 4, 1996.

*James E. Polewski*

Notary Public  
My Commission is permanent.

akt  
j\zarzynsk.cos

STATE OF WISCONSIN  
Department of Regulation & Licensing  
Division of Enforcement  
1400 East Washington Avenue  
Madison, WI 53708-8935

James M. Zarzynski

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|   | HOURS |
|---|-------|
| 05/16/95<br>AKT Consult with Inv. Summers, telephone conferences with Atty Eisenberg and with Board Advisor, prepare and fax Complaint, Summary Suspension documents and notices.   | 4.00  |
| 05/17/95<br>AKT Review files. Consult Atty Lubcke. Call Iowa Board of Medical Examiners. Leave message for Atty Eisenberg.  | 1.30  |
| 05/18/95<br>AKT Confer with Inv. Summers, leave message for Atty Eisenberg, edit and update Summary Suspension documents. Telephone conference with Atty Eisenberg, letter with release of medical records faxed to Atty Eisenberg. | 2.50  |
| 10/04/95<br>AKT Review file. Redo complaint. Letter to Atty Eisenberg with revised stipulation.   | 1.50  |
| 10/12/95<br>AKT Received and reviewed correspondence from Atty Eisenberg, letter in reply.  | .60   |
| 10/17/95<br>AKT Review file. Finalize Complaint.  | 1.00  |
| 10/19/95<br>AKT Review complaint with supervisor, copy for MEB.   | .50   |
| 12/06/95<br>AKT Pretrial conference with ALJ. Second Pretrial, and memo of same.  | .90   |
| 12/07/95<br>AKT Review file.  | .60   |



James M. Zarzynski

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|   | HOURS |
|---|-------|
| 02/06/96<br>AKT Review file and respondent's charts, work on deposition plan.   | 2.00  |
| 02/07/96<br>AKT Review file. Work on deposition plan. Telephone messages to Drs. Taxman and Winter re: records not received. Work on investigators' assignments.  | 2.00  |
| 02/08/96<br>AKT Letter to Atty Eisenberg. Work on investigator assignments.   | 1.00  |
| 02/20/96<br>AKT Motion conference by telephone with ALJ and Atty Eisenberg. Telephone conference with Atty Eisenberg's staff re: deposition of respondent. Memoranda of activities. Letter to Atty Eisenberg. | 1.00  |
| 02/21/96<br>AKT Review file. Leave message for Dr. Engel. Memo to Inv. Summers. Telephone conference with Dr. Engel.  | .50   |
| 02/23/96<br>AKT Telephone conference with Dr. Taxman's office re: records. Letter to ALJ.   | .70   |
| 02/26/96<br>AKT Receive and review ALJ Order re: Examinations. Letter to Atty Eisenberg.  | .70   |
| 02/28/96<br>AKT Prepare for deposition. Do Request for Documents.   | 2.50  |
| 03/01/96<br>AKT Prepare for deposition.   | 2.00  |
| 03/02/96<br>AKT Travel to Milwaukee, conduct deposition, return.  | 5.00  |

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|   | HOURS        |
|---|--------------|
| 12/20/95<br>AKT Pretrial conference attempted. Pretrial conference conducted. Document Request faxed. Review file, copy documents, letter to Atty Eisenberg with document copies.   | 2.00         |
| 01/11/96<br>AKT Obtain SPEX materials, review file, letter to Federation of State Medical Boards, letter to ALJ.  | 1.00         |
| 01/16/96<br>AKT Received and reviewed correspondence from Atty Eisenberg (response to Interrogatories). Telephone conference with ALJ re: scheduling motion hearing. Received scheduling order. Do first draft of brief, analyze applicable law.<br>AKT Lexis research for brief. | 1.50<br>2.00 |
| 01/17/96<br>AKT Analyze applicable law. Work on motion brief, fax to Atty Eisenberg. Work on records requests.  | 7.00         |
| 01/18/96<br>AKT File brief with ALJ.  | .20          |
| 01/22/96<br>AKT Review file. Consider litigation issues, draft trial plan.  | 1.50         |
| 01/24/96<br>AKT Leave message for Atty Eisenberg re: deposition of respondent.  | .20          |
| 01/30/96<br>AKT Telephone conference with Atty Eisenberg re: deposition of respondent, examination of respondent.   | .20          |
| 02/05/96<br>AKT Review pharmacy records, draft summaries for deposition use.  | 2.00         |

James M. Zarzynski

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|   | HOURS |
|---|-------|
| 03/07/96<br>AKT Telephone conferences with Interstate Blood Bank,<br>Wm. Kraiss. Draft Motion. Draft response to<br>Motion to Quash. Letter to Northwestern Mutual.<br>Do Notice of Intent to Offer Health Care Records,<br>and Affidavit of Service. | 6.00  |
| 03/08/96<br>AKT Review medical records. Do chronology. Telephone<br>conference with Atty Eisenberg.   | 8.00  |
| 03/11/96<br>AKT Review file, add inv. contacts to chronology,<br>telephone conference with Atty Eisenberg's staff<br>re: SPEX issues, arrange for photo payment.  | 1.50  |
| 03/13/96<br>AKT Telephone conference with Atty Eisenberg re:<br>Kinko's, transmit information to staff.   | .30   |
| 03/14/96<br>AKT Issue check for photos, review deposition<br>transcript, telephone conference with probation<br>agent, draft stip proposal, meet with Dr. Rohan.  | 3.50  |
| 03/15/96<br>AKT Leave message for Board Advisor. Work on new<br>stip proposal. Confer with supervisor.  | 1.00  |
| 03/18/96<br>AKT Telephone conference with Board Advisor re: new<br>stip. Send new stip to Atty Eisenberg. Receive<br>disk of deposition.  | .40   |
| 03/21/96<br>AKT Travel to Commissioner of Insurance office,<br>review PCF file, interview Cecelia Dobbs.<br>Telephone conference with Dan Bubolz.   | 2.30  |
| 03/29/96<br>AKT Receive telephone message from respondent. Leave<br>message for Atty Eisenberg. Memo of events.   | .40   |

James M. Zarzynski

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|  | HOURS        |
|--|--------------|
| 04/01/96<br>AKT Receive 3 telephone messages from Atty Eisenberg and office staff. Memo of same. Motion hearing by telephone with ALJ and Atty Eisenberg. Draft subpoenae. | 1.10         |
| 04/03/96<br>AKT Receive and review fax of documents requested. Telephone conference with Northwestern Mutual staff. Work on trial plan. Redo subpoenae. Receive ALJ order. | 1.50         |
| 04/12/96<br>AKT Telephone conference with L. Summers. Prepare materials for her testimony, arrange for delivery.   | .60          |
| 04/15/96<br>AKT Leave message for Atty Eisenberg re: SPEX application not received. Telephone conference with his staff. Prepare for trip to Milwaukee.                    | 2.00         |
| 04/22/96<br>AKT Travel to Commissioner of Insurance office, meet with Dan Bubolz. Revise trial plan.   | 2.00         |
| 04/24/96<br>AKT Interview T. Szymanski, memo of same.<br>AKT (Atty Harris) research 907.01, short memo.  | 2.50<br>1.50 |
| 04/25/96<br>AKT Trial preparation. Travel to Milwaukee.  | 8.00         |
| 04/26/96<br>AKT Attend hearing. Return to Madison. Letter to Board Advisor. Prepare stip for peer review.  | 4.00         |
| 05/22/96<br>AKT Present stipulation to MEB.  | .30          |
| 06/04/96<br>AKT Prepare bill of costs.   | 1.50         |

James M. Zarzynski

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|  | HOURS |            |
|--|-------|------------|
|  | ----- | -----      |
| FOR CURRENT SERVICES RENDERED  | 96.30 | 3948.30    |
| 05/24/95 Records from Mental Health Center of Dane County.           |       | 9.50       |
| 06/01/95 Records from UW Hospital.                                   |       | 82.00      |
| 01/24/96 Records from Mendota Mental Health Institute.               |       | 13.20      |
| 03/02/96 Deposition of respondent.                                   |       | 383.50     |
| 03/02/96 Deposition (room rental).                                   |       | 30.00      |
| 03/02/96 Traveled to Milwaukee for deposition (.25/mile, state car). |       | 40.00      |
| 03/14/96 Photos from Kinko's.  |       | 13.95      |
| 03/30/96 Records from Dr. Taxman.                                    |       | 3.50       |
| 04/25/96 Hotel for Atty. Thexton.                                    |       | 49.00      |
| 04/25/96 Traveled to Milwaukee for hearing (turndown rate).          |       | 28.80      |
| 04/26/96 Witness fees and mileage for Wm Kraiss.                     |       | 17.40      |
| 04/26/96 Witness fees and mileage for K. Callahan.                   |       | 5.40       |
|  |       | -----      |
| TOTAL COSTS  |       | 676.25     |
|  |       |            |
| BALANCE DUE  |       | \$4,624.55 |
|  |       | =====      |

The above records are kept in the ordinary course of business by the Division and are assessable under s.440.22, Wis. Stats. Hourly rates of \$41/attorney and \$20/investigator are set by DOE policy.